

Wage and Hour Division, Labor

§ 501.18

Solicitor of Labor designated by the Solicitor to perform functions of the Solicitor under this subpart.

(s) *Temporary alien agricultural labor certification* means the certification made by the Secretary of Labor with respect to an employer seeking to file with INS a visa petition to import an alien as an H-2A worker, pursuant to sections 101(a)(15)(H)(ii)(a), 214 (a) and (c), and 216 of the INA that (1) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the agricultural labor or services involved in the petition, and (2) the employment of the alien in such agricultural labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed (8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184 (a) and (c), and 1186).

(t) *United States Employment Service (USES)* means the agency of the U.S. Department of Labor, established under the Wagner-Peyser Act, which is charged with administering the national system of public employment offices and carrying out certain functions of the Secretary under the INA.

(u) *United States (U.S.) worker* means any worker who, whether a U.S. national, a U.S. citizen, or an alien, is legally permitted to work in the job opportunity within the United States (as defined at section 101(a)(38) of the INA (8 U.S.C. 1101(a)(38))).

(v) *Wages* means all forms of cash remuneration to a worker by an employer in payment for personal services.

Subpart B—Enforcement of Work Contracts

§ 501.15 Enforcement.

The investigations, inspections and law enforcement functions to carry out the provisions of section 216 of the INA, as provided in these regulations for enforcement by the Wage and Hour Division, pertain to the employment of any H-2A worker and any other worker employed in corresponding employment by an H-2A employer. Such enforcement includes those work contract provisions as defined in § 501.10(d). The work contract enforced includes the

employment benefits which must be stated in the job offer, as prescribed in 20 CFR 655.102.

§ 501.16 General.

Whenever the Secretary believes that the H-2A provisions of the INA or these regulations have been violated such action shall be taken and such proceedings instituted as deemed appropriate, including (but not limited to) the following:

(a) Impose denial of labor certification against any person for a violation of the H-2A obligations of the INA or the regulations. ETA shall make all determinations regarding the issuance or denial of labor certification. ESA shall make all determinations regarding the enforcement functions listed in paragraphs (b) through (d) of this section.

(b) Institute appropriate administrative proceedings, including the recovery of unpaid wages, the enforcement of any other contractual obligations and the assessment of a civil money penalty against any person for a violation of the H-2A work contract obligations of the Act or these regulations.

(c) Petition any appropriate District Court of the United States for temporary or permanent injunctive relief, including the withholding of unpaid wages, to restrain violation of the H-2A provisions the Act or these regulations by any person;

(d) Petition any appropriate District Court of the United States for specific performance of contractual obligations.

§ 501.17 Concurrent actions.

The taking of any one of the actions referred to above shall not be a bar to the concurrent taking of any other action authorized by the H-2A provisions of the Act and these regulations, or the regulations of 20 CFR part 655.

§ 501.18 Representation of the Secretary.

(a) Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under the Act.